

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**MICHAEL SUTTON, AND
KENNY PHILLIPS,**

Plaintiffs,

-VS-

DANIEL LENTZ, ET AL.,

Defendants.

Case No. 1:23-cv-01878

Judge Ruiz
Magistrate Judge Greenberg

**PLAINTIFFS' MOTION FOR LEAVE TO
TAKE THE DEPOSITION OF AN
INCARCERATED PERSON**

Plaintiffs respectfully move the Court under Federal Rule of Civil Procedure 30 for leave to take the deposition of a non-party who is “confined in prison.” Fed. R. Civ. P. 30(A)(2)(b). Counsel for all parties has conferred and agreed to Plaintiffs noticing this deposition, and all parties are aware that the prospective deponent is currently incarcerated, so the Motion is not opposed.

The person to be deposed is Deante Creel. Mr. Creel is a potential fact witness in this §1983 case arising out of the wrongful conviction of the two Plaintiffs after a different culprit committed a drive-by shooting in 2006. Plaintiffs, Michael Sutton and Kenny Phillips, were in a nearby car on the night at issue together with two other teens, Akeem Tidmore and Deante Creel. Mr. Tidmore and Mr. Creel may have knowledge of the facts of the night of the shooting as well as the original trial. Mr. Tidmore is deceased. Mr. Creel is incarcerated.

Plaintiff has noticed and served upon all counsel a subpoena to take the deposition of Mr. Creel on June 4, 2025. Mr. Creel is confined by the Federal Bureau of Prisons at the facility FCI McKean 6975 Route 59 Lewis Run, PA 16736. Mr. Creel is registered with the BOP number 13065-087. His release date is May 22 of 2027.

Courts routinely grant motions brought under Rule 30(a)(2)(B) as a matter of discovery management. *See, e.g., Washington v. Miami Cty. Bd. of Comm'rs.*, No. 3:20-cv-173, 2022 WL 952286, at *2 (S.D. Ohio Mar. 30, 2022) (in civil rights case, construing discovery motion in part as Rule 30(a)(2)(B) motion and granting without analysis as part of case management ruling). Here, because Mr. Creel will be incarcerated on the scheduled date and relatively far into the future, and because the parties have agreed to and need to take his deposition, Plaintiffs seek an order enabling the same.

For the foregoing reasons, to comply with Federal Rule 30(a)(2)(B) and to facilitate the deposition, Plaintiffs ask the Court for an order granting leave to depose Deante Creel.

Respectfully submitted,

/s/ Elizabeth Bonham

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on April 28, 2025, I filed a copy of the foregoing using the Court's CM/ECF system. All parties will receive notice and service through that system.

/s/ Elizabeth Bonham
One of the Attorneys for Plaintiff